

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	Criminal No. 03-826
	:	
v.	:	Filed: 7/8/03
	:	
BARRY HOLLAND,	:	Violation: 18 U.S.C. § 371
	:	
Defendant.	:	
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INFORMATION

CONSPIRACY TO COMMIT MAIL FRAUD  
(18 U.S.C. § 371)

The United States of America, acting through its attorneys, charges:

1. Barry Holland ("Holland") is hereby made a defendant on the charge stated below.

I. THE RELEVANT PARTIES AND ENTITIES

During the period covered by this Information:

2. Holland resided in Northport, New York.
3. Holland was employed by Transportation Displays, Inc. ("TDI"), an outdoor advertising company located in Manhattan that became part of The Viacom Outdoor Group, Inc., a division of Viacom, Inc. ("Viacom"), in 2001. Viacom, together with its subsidiaries, is a diversified global media company headquartered in Manhattan active in broadcast and cable television, radio, outdoor advertising and online. Viacom's businesses include CBS, MTV, Nickelodeon, VH1, BET, Paramount Pictures, Viacom Outdoor, Infinity, UPN, TV Land, The New TNN, CMT: Country Music Television, Showtime, Blockbuster and Simon & Schuster. Holland, as a Vice President and Creative Director, had primary responsibility at TDI, and later Viacom, for contracting with printing and graphic services vendors to produce self-promotional

advertising materials on behalf of TDI and Viacom.

4. The Color Wheel, Inc., a company located in Manhattan, New York, was a supplier of printing and graphic services, including retouching and separation services. The Color Wheel, Inc. was wholly owned by Haluk K. Ergulec ("Ergulec"). In 1999, The Color Wheel, Inc. merged with two other companies wholly owned by Ergulec, Manhattan Color Graphics, Inc., and A2, Inc., with The Color Wheel, Inc. being the surviving corporate entity. Manhattan Color Graphics, Inc., A2, Inc., and the pre- and post-merger The Color Wheel, Inc. are hereinafter collectively referred to as "Color Wheel."

5. Various other persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof. They included Color Wheel, Ergulec, and a Color Wheel salesperson ("CC-1").

## II. DESCRIPTION OF THE OFFENSE

6. From approximately 1991 and continuing through 2000, the exact dates being unknown to the United States, in the Southern District of New York and elsewhere, Holland and co-conspirators unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States of America, to wit, to violate Title 18, United States Code, Sections 1341 and 1346, in violation of Title 18, United States Code, Section 371.

7. It was a part and an object of the conspiracy that Holland and others known and unknown, having devised and intending to devise a scheme and artifice to defraud TDI, and for obtaining money and property from TDI by means of false and fraudulent pretenses,

representations, and promises, and to deprive TDI of its intangible right to the honest services of Holland, unlawfully, willfully, and knowingly, for the purpose of executing such scheme and artifice, would and did place in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and deposit and cause to be deposited matters and things to be sent or delivered by private and commercial interstate carriers, and take and receive therefrom, such matters and things, and knowingly cause to be delivered by mail and such carriers according to the directions thereon, or at the place at which they were directed to be delivered by the persons to whom they were addressed such matters and things, in violation of Title 18, United States Code, Sections 1341 and 1346.

### III. THE MANNER AND MEANS BY WHICH THE CONSPIRACY WAS CARRIED OUT

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

8. During all or some of the period from approximately 1991 through 2000, Ergulec and CC-1, acting through Color Wheel, paid Holland approximately \$176,266 in kickbacks. Holland, Ergulec, and CC-1 agreed that these kickbacks would amount to 10% of Color Wheel's sales to TDI, and that these kickbacks would be paid to Holland periodically in the form of checks issued by Color Wheel to him. Ergulec and CC-1 paid these kickbacks in order to ensure that Holland would allocate to Color Wheel a substantial portion of TDI's total purchases of printing and graphic services, and that Holland would not seek alternative suppliers. Invoices issued by Color Wheel to TDI were fraudulently inflated to cover the cost of the kickbacks. Color Wheel was able to charge non-competitive, artificially high prices because it did not face open and honest competition from other vendors due to its corrupt relationship with Holland. As a result of the

kickback arrangement, TDI was deprived of its right to the honest services of Holland and paid higher prices for the materials and services it purchased from Color Wheel than it would have if Holland had aggressively and honestly solicited competitive prices from other printing and graphic services vendors. In addition, because of the corrupt relationship between Holland and Color Wheel, other legitimate printing and graphic services vendors were foreclosed from selling to TDI.

#### IV. OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the Southern District of New York, and elsewhere:

9. On numerous occasions between approximately 1991 through 2000, pursuant to the conspiracy charged, Holland and his co-conspirators caused TDI to issue purchase orders, and caused Color Wheel to issue invoices, relating to the sale of graphic services to TDI. Some of these invoices and purchase orders were sent through the United States mails to and from locations in Manhattan.

10. On numerous occasions between approximately 1991 through 2000, co-conspirators

paid kickbacks to Holland in the form of checks issued by Color Wheel from its location in Manhattan, and some of these checks were sent through the United States mails.

IN VIOLATION OF TITLE 18, UNITED STATES CODE, SECTION 371

Dated:

/s/ \_\_\_\_\_  
JAMES M. GRIFFIN  
Acting Assistant Attorney General

/s/ \_\_\_\_\_  
RALPH T. GIORDANO  
Chief, New York Office

/s/ \_\_\_\_\_  
SCOTT D. HAMMOND  
Director of Criminal Enforcement

/s/ \_\_\_\_\_  
REBECCA MEIKLEJOHN

Antitrust Division  
U.S. Department of Justice

/s/ \_\_\_\_\_  
DOUGLAS M. TWEEN

/s/ \_\_\_\_\_  
ELIZABETH PREWITT

/s/ \_\_\_\_\_  
JAMES B. COMEY  
United States Attorney  
Southern District of New York

Attorneys, Antitrust Division  
U.S. Department of Justice  
26 Federal Plaza, Room 3630  
New York, New York 10278  
(212) 264-0654